

June 17, 2019

Ms. Stacey A. McArthur, RLA
D.S. Thaler & Associates, LLC
7115 Ambassador Road
P.O. Box 47428
Baltimore, Maryland 21244

Re: Country Club Estates
919 Wise Avenue
Baltimore, Maryland 21222
Forest Conservation Special Variance
Tracking # 07-19-2972

Dear Ms. McArthur:

A revised request for a variance from the Baltimore County Code Article 33, Title 6, Forest Conservation, was received and evaluated by the Department of Environmental Protection and Sustainability (EPS) on June 11, 2019. This variance request is in accordance with Section 33-6-116 of the Baltimore County Code and proposes to remove 51 specimen trees in order to develop a residential subdivision.

The approximately 268 acre property, known as Sparrows Point Country Club, is located in the Baltimore Harbor Watershed, south of Wise Avenue and west of Grays road in the Dundalk section of Baltimore County. This is an existing 27-hole golf course that also includes a 62-slip marina, tennis and swim facilities and a clubhouse. The property has been maintained as a golf course for decades, therefore, the majority of the 268 acres consists of golf course fairways, greens and cart paths, and maintained, scattered trees and other vegetation that are part of the initial design of the course. The proposal is to develop the property as a Planned Unit Development (PUD). The proposed PUD area includes approximately 76.4 acres and will include a mix of residential unit types, including 60 single-family homes, 53 villas, and 193 townhomes. The club will reduce the total number of golf holes from 27 to 18. Forest Conservation regulations are applicable on approximately 58 acres of the 268 acre property, on its northeastern and southeastern portions. The remainder of the property, including the remainder of the proposed development area, is located within the Chesapeake Bay Critical Area.

The Director of EPS may grant a special variance from the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of beneficial use of his property. Fifty-one specimen trees are proposed to be removed to accommodate the activities described above. All of the specimen trees to be removed are isolated, therefore, not located within forest. Of the 51 specimen trees to be removed, 37 of the trees are in good to fair condition and mitigation will be required. Fourteen of the trees to be removed are in poor condition and no mitigation is required. An additional 7 specimen trees are to be retained. The majority of the specimen trees to be removed are oak species, including scarlet, willow, white, black, red, and pin oak. Other specimen trees to be removed are tulip poplar, silver maple and white pine. Their sizes range from 30 inches in diameter at breast height (DBH) to 50 inches DBH. The specimen trees are scattered throughout the property and not in one central location, making it difficult to develop the property without impacting a majority of the specimen trees. We acknowledge that the inability to impact specimen trees would limit development of the site, however, we also acknowledge that if the requirement from which this variance is requested is imposed, it would not deprive the petitioner of all beneficial use of his property, therefore, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The plight of the petitioner is due to the unique circumstances of the scattered nature of the specimen trees on the property and the unavoidable impacts to a number of these trees due to these circumstances, rather than general conditions in the neighborhood, therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The existing Sparrows Point Country Club has been operating in the neighborhood for many years and the design of the proposed community will serve as a transition from the industrial uses located immediately east and south of the property and the existing residential neighborhood located to the north and west. Sparrows Point

Country Club will continue to operate as a golf course and country club with associated amenities. Therefore, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. Impacts to specimen trees will require mitigation, in the form of a fee-in-lieu of planting, as part of an approved, final Forest Conservation Plan that will also require afforestation and areas of existing forest or mitigation planting areas on the property to be placed into a Forest Conservation Easement, in perpetuity, along with the associated Declaration of Protective Covenants. In addition, stormwater management and sediment control requirements will be applicable. Therefore, we find that granting of the special variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any related actions on the property prior to requesting this variance. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. An approved, final Forest Conservation Plan is required, and must address afforestation requirements, and mitigation for the removal of all 37 specimen trees in good to fair condition. Given that afforestation, including specimen tree mitigation, will be addressed, and that Forest Conservation Easements will be established onsite in perpetuity, we find that this proposal would be consistent with the spirit and intent of the Forest Conservation Law. Therefore, this criterion has been met.

Based on our review, this Department finds that all of the required criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code, with the following conditions:

1. A final Forest Conservation Plan (FCP) is required prior approval of a grading/sediment control plan. The preliminary FCP has been approved, which proposes mitigation for the removal of 37 specimen trees, as follows, based upon 25% of the area of the critical root zone, at \$0.55 per square foot: Total of 85,771 square feet of critical root zone impact x \$0.55=\$47,173.78
2. All Forest Conservation mitigation fees-in-lieu of planting must be satisfied prior to the issuance of any permit. Any other Forest Conservation requirements must

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be satisfied or addressed as stipulated on an approved, final Forest Conservation Plan.

3. Any Forest Conservation Easement(s) must be recorded in the Baltimore County Land Records, via a Record Plat, prior to the issuance of any permits.
4. Any Forest Conservation performance security, via an Environmental Agreement, must be posted prior to the issuance of any permit, as per the approved Forest Conservation Plan.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and an amended variance request. Please have the property owner (s) sign the statement below and return a signed copy of this letter to this Department prior to building permit issuance. If there are any questions regarding this correspondence, please contact Thomas Panzarella at (410) 887-3980.

Sincerely yours,

David V. Lykens
Director

DVL/tcp

I/we agree to the above conditions to bring the referenced property into compliance with Baltimore County's Forest Conservation Law.

Signatures of Developer

Date

Printed Name of Developer